

57-8a-407. Damage to a portion of project -- Insurance proceeds.

(1) (a) If a portion of the project for which insurance is required under this part is damaged or destroyed, the association shall repair or replace the portion within a reasonable amount of time unless:

- (i) the project is terminated;
- (ii) repair or replacement would be illegal under a state statute or local ordinance governing health or safety; or
- (iii) (A) at least 75% of the allocated voting interests of the lot owners in the association vote not to rebuild; and
(B) each owner of a dwelling on a lot and the limited common area appurtenant to that lot that will not be rebuilt votes not to rebuild.

(b) If a portion of a project is not repaired or replaced because the project is terminated, the termination provisions of applicable law and the governing documents apply.

(2) (a) The cost of repair or replacement of any lot in excess of insurance proceeds and reserves is a common expense to the extent the association is required under this chapter to provide insurance coverage for the lot.

(b) The cost of repair or replacement of any common area in excess of insurance proceeds and reserves is a common expense.

(3) If the entire project is damaged or destroyed and not repaired or replaced:

(a) the association shall use the insurance proceeds attributable to the damaged common areas to restore the damaged area to a condition compatible with the remainder of the project;

(b) the association shall distribute the insurance proceeds attributable to lots and common areas that are not rebuilt to:

- (i) the lot owners of the lots that are not rebuilt;
- (ii) the lot owners of the lots to which those common areas that are not rebuilt were allocated; or
- (iii) lien holders; and

(c) the association shall distribute the remainder of the proceeds to all the lot owners or lien holders in proportion to the common expense liabilities of all the lots.

(4) If the lot owners vote not to rebuild a lot:

(a) the lot's allocated interests are automatically reallocated upon the lot owner's vote as if the lot had been condemned; and

(b) the association shall prepare, execute, and submit for recording an amendment to the declaration reflecting the reallocations described in Subsection (4)(a).

Amended by Chapter 152, 2013 General Session